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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,491	03/10/2004	Krisztian Kiss	042933/273086	5661
826 7590 10/01/2009 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER CONTÉE, JOY KIMBERLY	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 10/01/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/797,491

**Applicant(s)**

KISS ET AL.

**Examiner**

JOY K. CONTEE

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14, 16-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18, 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date 8/12/09, 6/24/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Allowable Subject Matter***

1. After careful reconsideration, the indicated allowability of claims 1-5,7-12,14 is withdrawn in view of the previously applied reference to Zhao.
2. Claims16-18 and 20-21 are allowed.
3. Claim 6 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's remarks and amendments filed 09/01/09 have been fully considered but they are not persuasive. Examiner has also reconsidered the last amendment to the claims made 2/05/09 and 3/25/09 and found that the amendments to independent claims 1 and 8, did not change the scope the claims and hence Examiner has returned to the Zhao reference in that the Processor 300 in Zhao sends out a Data Active Message to all push servers via transceiver interface 306 and the Internet on behalf of the wireless data device 10, hence all push servers begin serving the wireless data device 10 by pushing data traffic onto the wireless network (see Page 3 [0044] and see Fig. 3 and Fig. 8).

***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1,3-5,8,10-12,17,18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhao et al. (Zhao), US 2008/0153500.

Regarding claims 1 & 8, Zhao discloses an apparatus comprising a processor and a memory storing executable instructions that in response to execution by the processor (and method) cause the apparatus to at least perform the following: subscribing to a push service from the apparatus operating in a public network across from a mobile network or a private network within which another apparatus is operating, wherein subscribing to a push service comprises subscribing to a push service on behalf of the other apparatus(reads on data active message going out to push servers via transceiver interface and internet) (see page 3 [0039,0040,0044]),

receiving push content at the apparatus in accordance with the push service; initiating, from the apparatus, a data session with the other apparatus in response to receiving the push content to thereby direct the other apparatus to establish a data session with the apparatus(see page 3 [0039,0040,0044]); registering the other apparatus in with the apparatus accordance with establishment of the data session; and sending the push content to the other apparatus based upon the registration(page 3 [0042,0044]).

Regarding claim 3, Zhao discloses an apparatus according to Claim 1, wherein the memory stores executable instructions that in response to execution cause the apparatus to further perform: subscribing to the push service from the other apparatus based upon the registration, and wherein sending the push content comprises sending

the push content to the other apparatus based upon subscribing to the push service from the other apparatus (page 3 [0042,0044]).

Regarding claim 4, Zhao discloses an apparatus according to Claim 1, wherein initiating data session with the other apparatus comprises sending a trigger from the apparatus to the other apparatus independent of the public network to thereby trigger the other apparatus to register with the apparatus (page 3 [0036]).

Regarding claim 5, Zhao discloses an apparatus according to Claim 1, wherein registering the other apparatus comprises receiving a registration message at the apparatus from the other apparatus across the public network to acquire a public-network identity of the other apparatus, and wherein sending the push content comprises sending the push content based upon the public-network identity of the other apparatus (page 1 [0016]).

Regarding claim 10, Zhao discloses a method according to Claim 8 further comprising: subscribing to the push service from the other apparatus based upon the registration, wherein sending the push content comprises sending the push content to the other apparatus based upon subscribing to the push service from the other apparatus (see page 3 [0039,0040,0044]).

Regarding claim 11, Zhao discloses a method according to Claim 8, wherein initiating a data session with the other apparatus comprises sending a trigger from the apparatus to the other apparatus independent of the public network to thereby trigger the other apparatus to register with the apparatus (page 3 [0036]).

Regarding claim 12, Zhao discloses a method according to Claim 8, wherein registering the other apparatus comprises receiving a registration message at the apparatus from the other apparatus across the public network to acquire a public-network identity of the other apparatus, and wherein sending the push content comprises sending the push content based upon the public-network identity of the other apparatus(see page 3 [0039,0040,0044]).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhao, In view of Gielow et al. (Gielow), US Pub. No. 2005/0188406.

Regarding claims 2 and 9, Zhao discloses a system according to claims 1 and 8, respectively, wherein the network node is capable of receiving, but fails to explicitly disclose, thereafter storing the push content in a buffer at the apparatus and wherein sending the push content comprises sending the push content to the other apparatus from the buffer in accordance with the data session.

In a similar field of endeavor, Gielow discloses thereafter storing in a buffer, the push content, and wherein the network node is capable of sending the push content to

the terminal from the buffer (reads on the media gateway receiving feeds of media channels, buffering and caching the feeds) (see page 2 [0027]).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Zhao to include a buffer for the purpose of storing push content since it is known in the field of the art to store content.

9. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhao, in view of El-Beik et al. (El-Beik), US 2005/0117595.

Regarding claims 7 and 14, Zhao discloses the limitations of claims 1 and 8, respectively, but fails to explicitly disclose wherein the network node comprises a Session Initiation Protocol (SIP) proxy.

In a similar field of endeavor, El-Beik discloses a delivery network that offers push service and other equipment such SIP proxy (see page 1 [0010]).

At time of the invention it would have been obvious to one of ordinary skill in the art to modify Zhao to use SIP proxy since it is known in the art that SIP proxy is known in the art for push services.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOY K. CONTEE whose telephone number is (571)272-7906. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571.272.7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC

/Joy K Contee/  
Examiner (PSA), Art Unit 2617

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617